

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

FLAT ROCK TELEPHONE CO-OP, INC.	:	
	:	
	:	
Petition for Suspension or Modification	:	04-0181
of Section 251(b)(2) Requirements of the	:	
Federal Telecommunications Act	:	
Pursuant to Section 251(f)(2) of said Act;	:	
for entry of Interim Order; and for other	:	
necessary relief.	:	

**RESPONSE OF THE STAFF OF THE ILLINOIS COMMERCE
COMMISSION TO FLAT ROCK TELEPHONE CO-OP, INC.'S
MOTION TO STRIKE ALL OR PART OF VERIZON WIRELESS' BRIEF**

The Staff of the Illinois Commerce Commission ("Staff"), by and through its attorneys, pursuant to Section 200.190 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.190), respectfully submits its Response to Flat Rock Telephone Co-Op Inc.'s ("Flat Rock") Motion to Strike All or Part of Verizon Wireless' Brief.

As relevant, on June 30, 2004, Verizon Wireless filed a single Initial Brief in 17 separately-captioned dockets, including this docket. On July 6, 2004, Flat Rock filed a motion to strike all or part of Verizon Wireless' Initial Brief. On July 7, 2004, the Administrative Law Judge issued an order directing that responses to Flat Rock's motion be received by July 9, 2004. Notice, ICC Docket 04-0181 (July 7, 2004). The ALJ also directed that "[r]esponses must be specific to this docket, include citations to the record in this docket, and shall not be included with responses to similar motions filed in other dockets." Id.

In this Response, Staff concurs with certain of Flat Rock's requests to strike, disagrees with Flat Rock's request to strike in paragraph 12, and takes no position on Flat Rock's remaining requests to strike. Specifically, Staff concurs with Flat Rock's requests to strike as

described in paragraphs 3, 4, 8, 10, 16, 17,¹ 18-19. In addition, regarding Flat Rock's request to strike in paragraph 6, Staff concurs with the request to strike, but only insofar as striking any reference to carriers other than SBC Illinois, Verizon North and Verizon South (i.e., so-called "2% rural carriers"). Evidence in the record indicates that SBC Illinois, Verizon North, and Verizon South have made wireline-to-wireless local number portability available at least as of November 24, 2003. Staff Ex. 1.0 (Hoagg Direct), at 11-12, 14.²

Regarding Flat Rock's request to strike in paragraph 14, Staff concurs that the identified portion of Verizon Wireless' Initial Brief should be stricken on the basis that the unrebutted testimony established that Flat Rock subtends Verizon's Olney tandem. Flat Rock Ex. 1 at 18.

¹ In paragraph 17, the sentence to be stricken actually reads: "*Staff* did not independently verify the SBC tandem rates Petitioner relied on or he would have had even more concerns *regarding* the calculation." The misquote has no effect on the basis for Flat Rock's request to strike, or Staff's concurrence that the sentence should be stricken. Further, the record reveals that Staff witness Robert Koch did in fact perform some independent verification of Verizon's access rates. Tr. 223-24.

² Section II.D of Verizon Wireless' Initial Brief could be revised as follows:

D. Some Illinois ILECSs are offering Wireline to Wireless LNP

Since May 24, 2004, ~~SBC Illinois, Verizon North, Inc., Verizon South, Inc.~~ ~~some Illinois ILECs~~ have offered, or are currently required to offer, wireline-to-wireless LNP available in their service territories. ~~Among these carriers are large carriers such as SBC Illinois, Verizon North, Inc., Verizon South, Inc., and also several 2% rural carriers, Bergen Telephone Company, Chandlerville Telephone Company, Citizens Telephone Company, Clarksville Mutual Telephone Company, Frontier Communications, Inc., Gallatin River Telephone Company, Geneseo Telephone Company, Illinois Consolidated Telephone Company, Randview Mutual Telephone Company, and Sharon Telephone Company.~~

As Mr. McDermott testified, that since November 24, 2003, "Wireline-to-wireless LNP has been available in Cook County, DeKalb County, DuPage County, Grundy County, Kane County, Kendall County, Lake County, McHenry County, and Will County, which are part of the Chicago MSA." [footnote omitted]

Clearly the availability of wireline-to-wireless LNP in these areas of the state demonstrates that there is **no** technical infeasibility involved in making wireline-to-wireless LNP available in Petitioner's service area. The fact that these other carriers, ~~especially the above-listed small rural incumbent carriers, who are similarly situated to Petitioners,~~ are able to offer wireline-to-wireless LNP undercuts the significant adverse economic impact claimed by Petitioners.

As a consequence, Verizon Wireless' discussion of SBC Illinois' tandem rates is immaterial and irrelevant to this proceeding.

Staff, however, opposes Flat Rock's request to strike in paragraph 12. Evidence exists in the record to support Verizon Wireless' assertion, "Petitioners could not identify exactly what would be included in these mailing and called such identification premature." Flat Rock Mot. ¶ 12. In response to a question to "[d]escribe in detail the type of customer information Flat Rock proposes to undertake," Flat Rock witness Kevin Jacobsen testified that "specific customer information pieces have not, as yet, been developed." Flat Rock Ex. 1, at 30. Further, in response to a question to "[d]escribe the purpose and content of the customer education that Flat Rock intends to provide," Mr. Jacobsen testified that "the specific content of any customer education pieces has not been developed at this time." Id. at 31. Hence, an evidentiary basis exists for Verizon Wireless' assertion and, accordingly, Flat Rock's request to strike should be denied.

Staff takes no position regarding Flat Rock's requests to strike in the remaining paragraphs of its motion.

July 9, 2004

Respectfully submitted,

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